

§ 301.92-3

person in possession of the product or article that it is a restricted article.

[67 FR 6834, Feb. 14, 2002; 67 FR 13560, Mar. 25, 2002]

§ 301.92-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which *Phytophthora ramorum* has been found by an inspector, in which the Administrator has reason to believe that *Phytophthora ramorum* is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which *Phytophthora ramorum* has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of *Phytophthora ramorum*.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The following areas are designated as quarantined areas:

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CALIFORNIA

Alameda County. The entire county.

Marin County. The entire county.

Mendocino County. The entire county.

Monterey County. The entire county.

Napa County. The entire county.

San Mateo County. The entire county.

Santa Clara County. The entire county.

Santa Cruz County. The entire county.

Solano County. The entire county.

Sonoma County. The entire county.

OREGON

Curry County. That portion of the county bounded by a line drawn as follows: Beginning in the northwest corner of sec. 17, T. 40 S., R. 13 W., then east along sec. 17 and 16, T. 40 S., R. 13 W., to sec. 16, T. 40 S., R. 13 W., then south along sec. 16, 21, 28, and 33, T. 40 S., R. 13 W., to sec. 33, T. 40 S., R. 13 W., then west along sec. 33 and 32, T. 40 S., R. 13 W., to sec. 32, T. 40 S., R. 13 W., then north along sec. 32 and 29, T. 40 S., R. 13 W., to the midway point of the western boundary of sec. 29, T. 40 S., R. 13 W., then west to the center of sec. 30, T. 40 S., R. 13 W., then north through sec. 30 and 19, T. 40 S., R. 13 W., to the center of sec. 19, T. 40 S., R. 13 W., then east to the western boundary of sec. 20, T. 40 S., R. 13 W., then north along sec. 20 and 17, T. 40 S., R. 13 W., to the point of beginning.

§ 301.92-4 Conditions governing the interstate movement of regulated and restricted articles from quarantined areas.

Regulated articles and restricted articles may be moved interstate from a quarantined area² only if moved in accordance with this section.

(a) *With a certificate or departmental permit.*

(1) Any regulated articles may be moved interstate from a quarantined area if accompanied by a certificate issued and attached in accordance with §§ 301.92-5 and 301.92-8 of this subpart, and provided that the regulated article is moved through the quarantined area without stopping except for refueling, rest stops, emergency repairs, and for traffic conditions, such as traffic lights or stop signs.

(2) Any restricted article may be moved interstate from a quarantined area only if the article is moved:

(i) By the United States Department of Agriculture for experimental or scientific purposes;

²Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

(ii) Pursuant to a departmental permit issued by the Administrator for the article;

(iii) Under conditions specified on the departmental permit and found by the Administrator to be adequate to prevent the spread of *Phytophthora ramorum*; and

(iv) With a tag or label bearing the number of the departmental permit issued for the article attached to the outside of the container holding the article, or attached to the article itself if not in a container.

(b) *Without a certificate or departmental permit.*

(1) The regulated or restricted article originated outside the quarantined area and the point of origin of the article is indicated on the waybill of the vehicle transporting the article; and

(2) The regulated or restricted article is moved from outside the quarantined area through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs, and the article is not unpacked or unloaded in the quarantined area.

(Approved by the Office of Management and Budget under control number 0579-0191)

§ 301.92-5 Issuance and cancellation of certificates.

(a) An inspector³ may issue a certificate for the interstate movement of regulated articles if an inspector determines that:

(1)(i) The regulated articles have been treated under the direction of an inspector in accordance with § 301.92-10 of this subpart; or

(ii) The regulated articles are wood products such as firewood, logs, or lumber that are free of bark; or

(iii) The regulated article is soil that has not been in direct physical contact with any article infected with *P.*

ramorum, and from which all duff has been removed.

(iv) The regulated articles are articles of nursery stock that:

(A) Are shipped from a nursery or premises in a quarantined area that is inspected annually in accordance with the inspection and sampling protocol described in § 301.92-11(a) of this subpart, and that has been found free of *Phytophthora ramorum*; and

(B) Are part of a shipment of nursery stock that has been inspected prior to interstate movement in accordance with § 301.92-11(b) of this subpart, and that has been found free of *Phytophthora ramorum*; and

(C) Have been kept separate from regulated articles not inspected between the time of the inspection and the time of interstate movement; and

(D) Have not been grown in, or moved from, other areas within a quarantined area except nurseries or premises that are annually inspected for *Phytophthora ramorum* in accordance with this section, and that have been found free of *Phytophthora ramorum*.

(2) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714)⁴ to prevent the spread of *Phytophthora ramorum*; and

(3) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) Certificates may be issued by any person engaged in the business of growing, processing, handling, or moving regulated articles provided such person has entered into and is operating under a compliance agreement. Any such person may execute and issue a certificate

³Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 134, Riverdale MD 20737-1236, or the APHIS web site at <http://www.aphis.usda.gov/travel/aqi.html>.

⁴Sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754) provide that the Secretary of Agriculture may, under certain conditions, hold, seize, quarantine, treat, apply other remedial measures to destroy or otherwise dispose of any plant, plant pest, plant product, article, or means of conveyance that is moving, or has moved into or through the United States or interstate if the Secretary has reason to believe the article is a plant pest or is infested with a plant pest at the time of movement.